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14 IN THE UNITED STATES DISTRICT COURT  
15 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
16 SAN FRANCISCO DIVISION

17  
18 UNITED STATES OF AMERICA,

19 Plaintiff,

20 v.

21 REUNION INDUSTRIES, INC.

22 Defendant.  
23

COMPLAINT

24 Plaintiff, the United States of America, by authority of the Attorney General of the United  
25 States, at the request of the Administrator of the United States Environmental Protection Agency  
26 ("EPA"), and by and through its undersigned counsel, alleges as follows:  
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1. This is a civil action brought pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9607, against Reunion Industries, Inc. (“Reunion”), for the recovery of response costs incurred and to be incurred by the United States in connection with releases or threatened releases of hazardous substances at or from a facility operated by Reunion and located in Marin County, California.

## JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, 1355, 2201 and 42 U.S.C. §§ 9606, 9607, and 9613(b) and (g).

3. Authority to bring this action is vested in the United States Department of Justice pursuant to 28 U.S.C. §§ 516 and 519.

4. Venue is properly in this Court pursuant to 28 U.S.C. § 1391(b) and 42 U.S.C. § 9613(b), because it is the judicial district in which the releases or threatened releases of hazardous substances occurred.

### INTRADISTRICT ASSIGNMENT

5. The United States seeks to recover costs incurred and to be incurred in connection with property located in Marin County, California. Pursuant to Local Rule 3-2(d), this case is properly assigned to the San Francisco Division of the United States District Court for the Northern District of California.

## DEFENDANT

6. On information and belief, Reunion is a corporation organized under the laws of the State of Delaware.

7. Reunion succeeded to any surviving liabilities of Buttes Gas and Oil Co. (“BG&O”) that are the subject of this complaint.

## GENERAL ALLEGATIONS

8. This action concerns the Gambonini Mine (the "Site"), which is located in northwest Marin County, California.

9. The Site includes a mine pit, waste rock, tailings, and mercury extraction wastes.

Mercury was disposed and/or released at and from the site as a result of Reunion's operations.

10. Materials containing mercury were placed on a waste pile at the Site. The waste pile covered stretches of the Gambonini Ranch Creek.

11. Gambonini Ranch Creek enters Walker Creek, which in turn empties into Tomales Bay. Mercury has been released from the Site to Gambonini Ranch Creek and/or Walker Creek and/or Tomales Bay.

12. In 1972, BG&O constructed an earthen dam in the channel downstream of the waste pile. In 1982, the dam was breached and released sediment containing mercury to Gambonini Ranch Creek.

13. In 1998, erosional channels and landslides within the waste pile released additional mercury-laden sediment to the environment.

14. EPA conducted a removal action to respond to the releases and threatened releases of hazardous substances relating to the Site. The removal action was completed in 1999. EPA incurred response costs in conducting the removal action.

#### CLAIM FOR RELIEF

15. Paragraphs 1 through 14 are incorporated herein by reference as if fully set forth below.

16. Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes the President to respond to releases or threatened releases of hazardous substances, including conducting investigations of such releases and implementing appropriate response actions to clean-up such releases. The regulations at 40 C.F.R. Part 300 provide guidelines for such investigations and other response actions. The President may fund those activities with monies from the Hazardous Substance Superfund, established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507 (the "Superfund" or "Fund"). Under Section 107 of CERCLA, 42 U.S.C. § 9607, the President may recover those monies from parties liable for the releases or threatened releases.

17. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides, inter alia, that the following persons shall be liable under CERCLA for the costs incurred by the United States in responding to releases or threatened releases of hazardous substances:

- 1 (1) the owner and operator of a vessel or a facility, [and]  
2 (2) any person who at the time of disposal of any hazardous  
3 substance owned or operated any facility at which such hazardous  
4 substances were disposed of . . . .

5 18. Reunion, a successor to BG&O, is liable as an operator of the site under Section  
6 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

7 19. Reunion is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. §  
8 9601(21).

9 20. The Site is a "facility" within the meaning of Section 101(9) of CERCLA, 42  
10 U.S.C. § 9601(9).

11 21. Mercury is a "hazardous substance" within the meaning of Section 101(14) of  
12 CERCLA, 42 U.S.C. § 9601(14), and as listed at 40 C.F.R. § 302.4 (Table).

13 22. There have been and continue to be "releases" or "threatened releases" of  
14 hazardous substances at or from the Site, within the meaning of Section 101(22) of CERCLA,  
15 42 U.S.C. § 9601(22).

16 23. In response to the releases or threatened releases of hazardous substances at or  
17 from the Site, the United States has incurred and continues to incur "response" costs within the  
18 meaning of Section 101(25) of CERCLA, 42 U.S.C. § 9601(25). Such costs include, but are not  
19 limited to, the costs of investigation, monitoring, construction, and operation and maintenance,  
20 including all activities taken pursuant to Section 104(b) of CERCLA, 42 U.S.C. § 9604(b), and  
21 of prosecuting this action, together with prejudgment interest, as provided for by Section 107(a)  
22 of CERCLA, 42 U.S.C. § 9607(a).

23 24. Reunion is liable to the United States for all costs that the United States has  
24 incurred, is incurring, and will incur in connection with response actions relating to the Site  
25 under Section 107 of CERCLA.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, the United States of America respectfully requests that the Court:  
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1           1.     Enter judgment against Reunion, pursuant to Section 107(a) of CERCLA,  
2 42 U.S.C. § 9607(a), for all costs incurred by the United States, through the date of judgment, in  
3 response to releases and threatened releases of hazardous substances at and from the Site,  
4 together with prejudgment interest thereon;

5           2.     Enter a declaratory judgment pursuant to Section 113(g)(2) of CERCLA, 42  
6 U.S.C. § 9613(g)(2), and 28 U.S.C. § 2201, as to Reunion's liability for response costs that will  
7 be binding in any subsequent action or actions to recover further response costs;

8           3.     Award the United States the costs of this action; and

9           4.     Grant such additional relief as the Court deems appropriate.

10                               Respectfully submitted,

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